

INTER-OFFICE COMMUNICATIONS

Palm Beach County, Florida

TO: John Sansbury, County Administrator
Lisa Heasley, County Attorney's Office
Herb Kahlert, County Engineer
David Bludworth, State Attorney
Joy Shearer, Asst. Attorney General
Captain Cook, Sheriff's Dept. - Civil
Jerry Nolan, Director of Admin. - Sheriff's Office
John Lehner, Planning, Zoning & Bldg.
Bob Palchanis, Building Division, Director
Tom McEaddy, Assistant County Attorney
Patty Young - 4th District Court of Appeals
Law Library
(2) County Library
Pinky Yount, PBC Municipal League Inc.

DATE: June 25, 1986

- Denise Smyth, Finance
- John Flynn, "
- Wanda Isenburg, "
- Judy Hemberger, "

FROM: John W. Dame, Chief Deputy Clerk

RE: PALM BEACH COUNTY ORDINANCE DISTRIBUTION

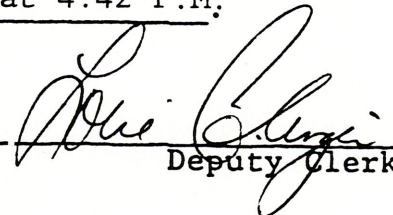
ORDINANCE NO. 86-17

TITLE REFERENCE:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 2, 13, AND 18 OF PALM BEACH COUNTY ORDINANCE NO. 86-2, REGARDING THE MANDATORY GARBAGE AND WASTE COLLECTION AND DISPOSAL PROCEDURES WITHIN THE SEVEN (7) MUNICIPAL SERVICE BENEFIT UNITS IN THE UNINCORPORATED AREA OF PALM BEACH COUNTY, FLORIDA FOR THE PURPOSE OF AMENDING THE DEFINITIONS OF BULK GARDEN TRASH AND DWELLING UNITS; TO AUTHORIZE THE BOARD TO SELECT A DESIGNEE, IF DESIRED, TO HEAR PETITION APPEALS; AND PROVIDING VARIOUS OTHER CHANGES FOR THE EFFECTIVE AND EFFICIENT IMPLEMENTATION OF SAID PROCEDURES; AND PROVIDING FOR SEVERABILITY, PENALTIES, REPEAL OF CONFLICTING ORDINANCES, INCLUSION IN THE CODE OF LAWS AND ORDINANCES AND EFFECTIVE DATE.

Attached is a copy of the above referenced Ordinance of Palm Beach County. This Ordinance has been filed with Florida Department of State and forwarded to Municipal Code Corporation for codification. The effective date is June 25, 1986 at 4:42 P.M.

Signed


Deputy Clerk

JWD:

Attachment

* cc: Commissioners, BCC
Clerk
Minutes

*If a complete copy of ordinance is needed, please advise this office and we will be happy to provide a copy.

ORDINANCE NO. 86-17

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 2, 13, AND 18 OF PALM BEACH COUNTY ORDINANCE NO. 86-2, REGARDING THE MANDATORY GARBAGE AND WASTE COLLECTION AND DISPOSAL PROCEDURES WITHIN THE SEVEN (7) MUNICIPAL SERVICE BENEFIT UNITS IN THE UNINCORPORATED AREA OF PALM BEACH COUNTY, FLORIDA FOR THE PURPOSE OF AMENDING THE DEFINITIONS OF BULK GARDEN TRASH AND DWELLING UNITS; TO AUTHORIZE THE BOARD TO SELECT A DESIGNEE, IF DESIRED, TO HEAR PETITION APPEALS; AND PROVIDING VARIOUS OTHER CHANGES FOR THE EFFECTIVE AND EFFICIENT IMPLEMENTATION OF SAID PROCEDURES; AND PROVIDING FOR SEVERABILITY, PENALTIES, REPEAL OF CONFLICTING ORDINANCES, INCLUSION IN THE CODE OF LAWS AND ORDINANCES AND EFFECTIVE DATE.

WHEREAS, it is appropriate to amend Palm Beach County's Mandatory Garbage and Waste Collection and Disposal procedures to amend the definitions of bulk garden trash and dwelling units to clarify the intent and scope of those definitions, and

WHEREAS, it is appropriate to authorize the Board to select a designee, if desired, to hear petition appeals, and

WHEREAS, it is appropriate to make other amendments for the effective and efficient implementation of said procedures.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that:

Part I - Subsections C and I of Section 2, Definitions, of Ordinance No. 86-2, are amended as follows:

C. Bulk Garden Trash: Large cuttings of all vegetative and wood matter, such as, but not limited to, ~~grass, -leaves, -palm-fronds,~~ tree branches and tree hedge trimmings and which are a part of normal yard material and which cannot be cut for placement in a container, bag, or tied bundle due to such trash exceeding the weight and size restrictions provided under this Ordinance for a regular residential collection. However, such trash shall not include any form of matter or debris from tree removals, land clearing, land development, building demolitions or home improvement and further, all trash items which can be cut for placement in a container, bag or tied bundle for regular residential collection must be processed in that manner.

1 I. Dwelling Unit: An individual living unit with kitchen
2 facilities. ~~and shall include a house, apartment, efficiency apartment,~~
3 ~~mobile home and all other habitations commonly used as residences; such~~
4 ~~terms shall not mean a room in a motel or hotel.~~

5 Part II - Section 13, Correction of Errors and Omissions, Petition to
6 Board, of Ordinance No. 86-2, is amended as follows:

7 SECTION 13. CORRECTION OF ERRORS AND OMISSIONS.

8 PETITION TO BOARD:

9 No act of error, omission or commission on the part of the
10 Property Appraiser, Tax Collector, Board, Clerk of their deputies or
11 employees, or other Board designee shall operate to defeat the payment of
12 the annual collection special assessment imposed by the Board under the
13 provisions of this Ordinance. Provided, however, any errors of omission
14 or commission may be corrected at any time by the officers or party
15 responsible for them in like manner as provided under this Ordinance for
16 performing such acts in the first place, and when so corrected they shall
17 be construed as valid ab initio and shall in no way affect any process by
18 law for the enforcement of the annual collection special assessment
19 imposed under the provisions of this Ordinance.

20 The Board shall have the authority, at any time, upon its own
21 initiative or in response to a petition from any affected owner of
22 residential units to correct any error of omission or commission in the
23 adoption of any annual collection special assessment roll or in the
24 implementation of this Ordinance, including but not limited to, an error
25 in including any residential unit on such roll when such real property is
26 not a residential unit within the scope of this Ordinance and any error
27 in the calculation of the annual collection special assessment imposed
28 against any residential unit.

29 For each service year any owner of real property may petition
30 the Board or Board designee to correct any asserted error of omission or
31 commission in relation to his property in the adoption of the annual
32 collection special assessment roll or in the implementation of this
33 ordinance but such petition must be initiated within one hundred and
34 twenty (120) days of the date the asserted error took place. Such

1 petition shall be initiated by filing with the Clerk of the Circuit Court
2 acting as the Clerk of the Board, a written petition containing the name
3 of the owner, a legal description of the real property affected, a
4 summary description of the asserted error and the relief requested of the
5 Board. Such petition shall be considered by the Board or Board designee
6 at any regular or special meeting. The filing of a petition authorized
7 by this section will stay all proceedings and implementation of this
8 Ordinance concerning the property which is the subject of the petition
9 until there is a final decision of the Board or Board designee as
10 provided herein. A petition shall be applicable only for the service
11 year in which the asserted error of omission or commission occurred.

12 If upon consideration of the petition as authorized herein, the
13 Board or Board designee determines, based upon information and data
14 available through the County designees, officers or parties responsible
15 for implementation of the Ordinance as it pertains to performing those
16 acts applicable to the alleged error of omission or commission, that
17 granting the relief as requested in the petition cannot be supported
18 based on said available information and data, then the Board or Board
19 designee shall notify the owner as contained in the petition, by
20 certified or registered mail, return receipt requested, of the right to
21 request a hearing before the Board on a date not to exceed forty-five
22 (45) days from the date the Board initially considers the petition.
23 Unless said hearing is requested by the owner within fourteen (14) days
24 of the receipt of said notice then the initial consideration of the
25 petition by the Board or Board designee shall be final and no refiling or
26 reconsideration shall be considered. In the event, the Board or Board
27 designee is unable to notify the owner by mail, as provided herein, of
28 the right to request a hearing, the Board shall set a hearing at the
29 earliest possible date, not to exceed forty-five (45) days from the date
30 the Board or Board designee initially considers the petition. Reasonable
31 notice of all hearings shall be provided by the Clerk of the Circuit
32 Court acting as Clerk to the Board. Formal Rules of Evidence shall
33 not apply to such hearings, but fundamental due process shall be
34 observed and shall govern the proceeding. Petitioner and the County
35 shall have the right to:

- 1 1. Call and examine witnesses;
- 2 2. Introduce exhibits;
- 3 3. Cross-examine witnesses on any relevant matter; and
- 4 4. Rebut the evidence.

5 At all hearings the Board or Board designee shall hear and consider all
6 facts material to the petition and thereafter the Board or Board
7 designee, also considering the provisions of this Ordinance, and
8 amendments thereto, as well as the purposes and intent thereof, may grant
9 or deny, partially or wholly, the relief requested in the petition. The
10 decision of the Board or Board designee resulting from a hearing shall be
11 final, and no petition for rehearing or reconsideration shall be
12 considered. Any person, including Palm Beach County and the petitioner,
13 who is aggrieved by any decision of the Board or Board designee may apply
14 for a review by writ of certiorari in accordance with the applicable
15 Florida Appellate Rules. However, this provision shall not be construed
16 to limit any other remedy provided by law.

17 All owners of residential units whose property is subject to a
18 petition shall have until the first day of May of each service year of
19 thirty (30) days from the date the Board or Board designee makes a final
20 decision on the relief requested in the petition, whichever provides a
21 greater time period, to pay the amounts due under this Ordinance.

22 However, the said thirty (30) day expiration period for payment
23 of the annual special assessment shall not prevent or limit the ability
24 of the owner of the residential unit, to make arrangements for equal
25 quarterly installment payments of the special assessment, subject to the
26 terms and conditions as provided under Section 11 of this Ordinance,
27 except that all such requests for quarterly installment payments shall be
28 made within fifteen (15) days from the date the Board or Board designee
29 make a final decision on the relief requested in the petition.

30 Part III - Section 18, Responsibilities of Franchisee and Customers for
31 Garbage and Waste Collection, of Ordinance No. 86-2, is hereby amended as
32 follows:

1 SECTION 18. RESPONSIBILITIES OF FRANCHISEE AND CUSTOMER FOR
2 GARBAGE AND WASTE COLLECTION:

3 The franchisees shall collect from, and customers shall provide
4 for collection, as follows:

5 A. Residential Units: Twice per week collection at the curb,
6 (within six feet) or closest accessible public right of way, the customer
7 shall be allowed unlimited pickup provided all garbage and waste is
8 properly containerized in containers approved by the franchisee, not to
9 exceed thirty-two (32) gallons, or in sealed plastic bags or tied
10 bundles, not exceeding four (4) feet in length. No afordescribed
11 container, bag or bundle may exceed fifty (50) pounds in weight. Ingress
12 and egress on private roads must be provided by the customer. However,
13 if said private road is inaccessible, the customer's containers shall be
14 placed on the closest public right-of-way that is accessible to the
15 authorized franchisee but as not to obstruct motor vehicle traffic or
16 pedestrian passage or surface storm drainage. In addition, upon request
17 by the owner of a residential unit, the franchisee shall provide for a
18 separate, scheduled pickup of junk, as defined herein, and such service
19 shall be unlimited as to quantity, size and weight, however, it shall be
20 placed at the curb and shall not include vehicles, vehicle component
21 parts or liquid waste. Further, the junk shall be disassembled, if
22 possible, prior to pickup by the franchisee. The franchisee shall
23 schedule the pickup of said unlimited junk within seventy-two (72) hours,
24 exclusive of weekends and holidays, of being requested by the owner of a
25 residential unit for such service. Additionally, each franchisee shall
26 also provide bulk garden trash collection service within fourteen (14)
27 days of being requested by the owner of a residential unit. Residents
28 should call the residential franchisee for processing information and
29 pickup schedule prior to placing such bulk items at the curb. No
30 commercially generated garbage, waste, junk or bulk garden trash will be
31 collected by the residential franchisee. The pickup of unlimited junk
32 and bulk garden trash as provided herein, shall be included in the annual
33 special assessment imposed herein, without any additional assessment,
34 service charge, fee or tax to be imposed by the Board or franchisee for
35 such service. If a normal collection day falls on a holiday, then

1 service shall be provided for the next scheduled pickup day, in addition
2 to normal collection. All collections under the terms of this ordinance
3 shall be made in a neat and workman-like manner and any spillage caused
4 by the franchisee shall be removed by the franchisee.

5 B. Commercial Property: A minimum of once per week service is
6 required of all customers, however, where garbage, as defined herein, is
7 generated a minimum of twice per week, collection is required. Such
8 service shall be provided by mechanical container as defined herein.
9 However, where a customer generates one cubic yard or less per week of
10 garbage and waste, alternate non-mechanical containers may be utilized.
11 Customers generating one cubic yard or less per week shall be charged at
12 the minimum cubic yard rate as established; however, commercial property
13 consisting of at least one dwelling unit may utilize non-mechanical
14 containers if such property elects to receive the same type of collection
15 service provided residential units, but in the event of such election the
16 customer shall be charged by the designated commercial franchisee the
17 same rate and in the same manner for each dwelling unit comprising the
18 commercial property that residential units billed by the residential
19 franchisee are subject to within the district in which the commercial
20 property is located. Such residential service shall not affect the
21 obligation of the designated commercial franchisee to collect from such
22 property. The size of the mechanical container and the frequency of
23 collection, unless residential service is elected as provided herein,
24 shall be determined between the customer and the franchisee except as
25 specified herein. However, size and frequency shall provide that no
26 garbage and waste need be placed outside the mechanical container.
27 Storage capacity shall be suitable for the amount of garbage and waste
28 generated by the customer. Franchisee shall provide mechanical
29 containers as necessary, however, customers may acquire their mechanical
30 container from any source provided that the source or customer is
31 completely responsible for its maintenance in accordance with the minimum
32 requirements stated herein. Such mechanical containers shall be of a
33 type that can be serviced by the franchisee's equipment. If a normal
34 collection day falls on a holiday, then service shall be provided the
35 next scheduled pickup day, in addition to normal collection.

1 Part IV - Severability:

2 If any clause, section, or provision of this ordinance shall be
3 declared to be unconstitutional or invalid for any cause or reason, the
4 same shall be eliminated from this Ordinance and the remaining portion of
5 this Ordinance shall be in full force and effect and be as valid as if
6 such invalid portion thereof had not been incorporated therein.

7 Part V - Penalties:

8 Violations of this Ordinance shall be prosecuted in the same
9 manner as misdemeanors are prosecuted and upon conviction shall be
10 punished by fine not to exceed five hundred dollars (\$500.00) or by
11 imprisonment in the County Jail not to exceed sixty (60) days or by both
12 fine and imprisonment.

13 Part VI - Repeal of Conflicting Ordinances:

14 The provisions of any other Palm Beach County Ordinance that
15 are inconsistent or in conflict with the provisions of this Ordinance are
16 repealed to the extent of such inconsistency or conflict.

17 Part VII - Inclusion in the Code of Laws and Ordinances:

18 The provisions of this ordinance shall become and be made a
19 part of the code of laws and ordinances of Palm Beach County, Florida.
20 The Sections of the ordinance may be renumbered or relettered to
21 accomplish such, and the word "ordinance" may be changed to "section,"
22 "article," or any other appropriate word.

23 Part VIII - Effective Date:

24 The provisions of this ordinance shall become effective upon
25 receipt of acknowledgement by the Secretary of State.

1 APPROVED AND ADOPTED by the Board of County Commissioners of
2 Palm Beach County, Florida, on the 10th day of June, 1986.

3 PALM BEACH COUNTY, FLORIDA, BY ITS
4 BOARD OF COUNTY COMMISSIONERS

5 By Loren M. Marcus
6 Chairman

7 APPROVED AS TO FORM AND
8 LEGAL SUFFICIENCY

9 [Signature]
10 County Attorney

11 Acknowledgement by the Department of State of the State of
12 Florida, on this, the 23rd day of June, 1986.

13 EFFECTIVE DATE: Acknowledgement from the Department of State
14 received on the 25th day of June, 1986, at 4:42
15 P.M., and filed in the Office of the Clerk of the Board of County
16 Commissioners of Palm Beach County, Florida.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, ex-officio Clerk of the
Board of County Commissioners, certify this to
be a true and correct copy of the original filed in
my office on 6/27/86
DATED at West Palm Beach, FL on 6/27/86
JOHN B. DUNKLE, Clerk
By: [Signature] D.C.